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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,413	07/11/2003	Steven Shuyong Xiao		2632

7590 05/11/2005

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EXAMINER

BREWSTER, WILLIAM M

ART UNIT	PAPER NUMBER
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2823

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,413

Applicant(s)

XIAO ET AL.

Examiner

William M. Brewster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>071103</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 11 July 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The three US Patents have been considered. All references which are not US Patents or US Pre-Grant Publications must be submitted to be considered. The IDS dated 4 May 2005 supercedes any version of the IDS the examiner has considered.

The following rejection has been incorporated from the rejection sent 15 September 2004. The examiner republishes the rejection here for convenience:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-12, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Forrest et al., U.S. Publication No. 2003/0117068 A1.

Forrest anticipates a method to fabricate an organic electronic and optoelectronic device, p. 1, ¶ 3, comprising:

Preparing, in fig. 2, layer 181, a first part with at least a layer of a first organic material containing a first polymerisable group, lower part of one of the layers of 181,

Preparing a second part with at least a layer of a second organic material containing a second polymerisable group, upper part of one of the layers of 181,

Bonding said first part to said second part under an environment with controlled parameters, wherein said bonding of said first part and said second part is achieved by cross-linking between said first polymerisable group and said second Polymerisable groups, p. 4, ¶ 47;

limitations from claim 10, a method to fabricate an organic electronic and optoelectronic device as defined in Claim 9 wherein said first polymerisable group is the same as said second polymerisable group, listed in p. 4, ¶ 47;

limitations from claim 11, a method to fabricate an organic electronic and optoelectronic device as defined in Claim 9, wherein said first polymerisable group is different from said second polymerisable group, from "combinations thereof" of the polymers listed in p. 4, ¶ 47;

limitations from claim 12, a method to fabricate an organic electronic and optoelectronic device as defined in Claim 9, wherein said first polymerisable group and said second polymerisable group are selected from a group of alkyl, acrylate,

epoxy, vinyl, vinyl ether, oxethane, acrylnitrile, urethane, amino, hydroxyl, halide, isothiocyanate, isocyanate, nitrile, or a mixture of at least two of the above: acrylate, listed in p. 4, ¶ 47;

limitations from claim 14, A method to a fabricate an organic electronic and optoelectronic device as defined in Claim 9, wherein said controlled parameters of said environment include heating, electron beam radiation or light lamination: heating, p. 4, ¶ 47.

Response to Arguments

Applicant's arguments filed 27 October 2004 have been fully considered but they are not persuasive. Applicant argues the Forrest reference does not teach any structure or method for preparation for the active region of the optoelectronic as opposed to Forrest who teaches the formation of a protective layer. Further, applicant argues the application teaches cross-linking at the interface between the two polymeric materials whereas Forrest teaches polymerization to harden the material.

Examiner agrees with applicant's assessment of the disclosure of the application and the differences between the disclosure and the Forrest reference. However, examiner respectfully disagrees with applicant's assertion that the *claims* of the application are distinguished from Forrest. The USPTO tasks examiners to interpret the claims as broadly as reasonably possible (see below). With this fiduciary responsibility in operation, the examiner does not see *active layer*, *two parts of the device*, or *two separate layers* within the **claims**. Rather, the claims are *comprising* claims with no

temporal limitations. The claims have the limitation of bonding two unlabelled *parts* to fabricate an organic electronic and optoelectronic device which may reasonably be interpreted as bonding the protective layer. Examiner submits the rejection is proper under US Patent Procedure.

Examiner must give claims their broadest reasonable interpretation, MPEP §2111, "During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified, *In re Pratter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969), *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997)." Also see *In re Zletz*, 13 USPQ 2d. 1320 (Fed. Cir. 1989).

For the above reasons, the rejection is deemed proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William M. Brewster whose telephone number is 571-272-1854. The examiner can normally be reached on Full Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 571-272-1855. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William M. Brewster

4 May 2005

WB